

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

Re: Disbursement of :
§1326 Pre-Confirmation : Administrative Order 05-03
Adequate Protection Payments in :
Chapter 13 Cases filed on and after :
October 17, 2005 :

ORDER

Whereas a need exists to clarify and simplify the manner in which §1326 pre-confirmation adequate protection payments will be made in Chapter 13 cases filed on and after October 17, 2005.

NOW, therefore, this 12th day of October 2005, IT IS
HEREBY ORDERED, as follows:

The Chapter 13 plan shall provide that §1326 pre-confirmation adequate protection payments will be paid through the Chapter 13 Trustee. The plan shall list creditor name, address, account number, and monthly payment amount for each creditor receiving §1326(a)(1) pre-confirmation adequate protection payments.

The debtor shall commence plan payments to the Trustee within 30 days after the order for relief or the order converting the case to Chapter 13. Said payment shall include the amounts necessary to pay pre-confirmation adequate protection payments plus the statutory Trustee's fees. The debtor shall not reduce plan payments to the Trustee under §1326(a)(1)(C) as a result of these adequate protection payments, without an order of this Court.

A creditor may file a motion requesting a change in the amount of §1326(a)(1) pre-confirmation payments pursuant to §1326(a)(3). Until the creditor's motion is resolved, the Chapter 13 Trustee shall continue to make pre-confirmation adequate protection payments to such creditor as set forth herein.

The Chapter 13 Trustee is authorized to pay §1326(a)(1) pre-confirmation payments in an amount as set forth in the proposed plan, however, no such payments shall be made to a creditor until a proof of claim is filed. Pre-confirmation payments shall be made to the creditors with the Trustee's first monthly disbursement at least 30 days after the petition date and following filing of the claim. At the time of such payments, the Chapter 13 Trustee is authorized to retain an administrative fee for effecting the payments described herein and shall collect such fee at the time of making the payment from the funds on hand with the Trustee. The allowed fee shall be equal to the percentage fee established by the Attorney General pursuant to 28 U.S.C. 586 (e)(1)(B) in effect at the time of

disbursement. The Trustee shall apply each §1326(a)(1) pre-confirmation payments to the principal outstanding on the creditor's claim.

If the case is dismissed prior to confirmation, the creditor shall receive from the Trustee, any §1326 pre-confirmation adequate protection payments due and owing from funds collected by the Trustee under §1326(a)(1)(A) less statutory trustee fees and specifically allowed §503(b) claims, including debtor's attorney fees.

This Order shall be effective Oct. 17th, 2005.



Hon. Stephen Gerling
Chief Bankruptcy Judge

Hon. Robert E. Littlefield, Jr.
Bankruptcy Judge